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Report : Claim of E. Ogden

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IN THE SENATE OF THE UNITED STATES.

APRIL 5, 1860.—Ordered to be printed.

Mr. IVERSON made the following

REPORT.

[To accompany Bill S. 374.]

The Committee on Claims, to whom the claim of Mrs. Eliza E. Ogden was recommitted, by order of the Senate, have had the same under consideration, and concur in the report of the Committee on Claims of the Senate on this claim, made during the first session of the last Congress, which the committee hereby adopt, and report a bill accordingly, for the relief of the memorialist. The report alluded to is as follows:

IN THE SENATE OF THE UNITED STATES, *May 15, 1858.*

The Committee on Claims, to whom was referred the petition of Eliza E. Ogden, report:

The petitioner, as the widow of the late Major Edmund A. Ogden, asks to be allowed a commission of two and a half per cent. on the sum of \$116,040 disbursed by her late husband out of the appropriations for the suppression of Indian hostilities, and on \$279,238 10 disbursed in the Mexican war—making an aggregate of \$395,278 10. These disbursements were made by him as an assistant quartermaster in the United States army, between the 1st October, 1840, and the 30th September, 1849, as the committee is informed upon inquiry at the office of the Third Auditor of the Treasury.

Mrs. Ogden cites, as a precedent for this allowance, the case of the widow of Captain Hetzel, who was allowed a like percentage on the sums disbursed by her husband, as assistant quartermaster, out of appropriations made for the suppression of Indian hostilities, by a special act of Congress. (10 Stat., 736.) A similar allowance was made to the widow of Captain Eneas Mackay, for like disbursements. (10 Stat., 813.) But in both instances the allowance of two and a half per cent. was limited to disbursements made prior to 30th September, 1838.

In their report, accompanying the bill for the payment of the percentage to Mrs. Mackay, the Committee on Military Affairs of the House of Representatives say: "These disbursements of special

appropriations are considered to have been no part of the official duty of Colonel Mackey ; and such being the case, it was reasonable for him to expect the usual compensation for taking upon himself the labor and responsibility of making them." But after the passage of the act of July, 1838, the condition of things was changed. This is explained by the following extract from a letter addressed by General Jesup to Hon. E. B. Washburne, House of Representatives, dated 15th December, 1853. (See House Report No. 40, 1st session 33d Congress.) General Jesup says : "When the Creek and Seminole Indians became hostile, a large force of militia and volunteers was necessarily called into service. The quartermaster's department, organized for a limited peace establishment, had not sufficient officers for the responsible, laborious, and important duties which devolved on it by the sudden state of war ; all the powers and faculties of the few officers composing it were taxed to the utmost. Congress, satisfied of the necessity of an increase, authorized, in July, 1838, the appointment of twelve additional officers. These additional officers were mostly at their posts, it is understood, by the close of the third quarter of 1838. As these officers were appointed in direct reference to the large militia and volunteer force required in addition to the regular army, I should not consider any extra compensation due for disbursing the special appropriations after the 30th September, 1838, whatsoever equity there may be in such claims for disbursing those appropriations previous to that time."

In conformity with these views, no allowance was made to Mrs. Hetzel or Mrs. Mackay for disbursements of this character made subsequently to September 30, 1838 ; and the committee think that the same rule should apply in the present case, which excludes all allowance for disbursements for the suppression of Indian hostilities, as they were made subsequently to that date.

In reference to the other branch of the claim, to wit: for disbursements for the Mexican war, General Jesup, in the letter above quoted, remarks: "For payments made by the pay department on account of the volunteer force serving in the Mexican war, Congress authorized a commission, not exceeding one half of one per cent., on all sums disbursed, not to exceed \$1,000 per annum to each paymaster. The responsibilities of the officers of the quartermaster's department are equal to the responsibilities of the officers of the pay department, and their labors are much more onerous. There is no reason, therefore, for allowing extra compensation to paymasters which will not apply with equal or greater force to quartermasters." In accordance with these views, Congress authorized the allowance of half of one per cent. in the settlement of Quartermaster Mackay's accounts. If the same rule be applied in this case, the claimant will be entitled to receive at that rate per cent. for the disbursement of \$279,238, in the years 1846, 1847, and 1848-49, as shown by a letter of the Third Auditor, dated May 14, 1858, addressed to the chairman of the committee, which is among the papers, amounting to \$1,396 19, for the payment of which the committee report a bill.